

### **REMARKS**

This is responsive to the June 11, 2007 first-Office Action.

#### **Claim Rejections – 35 U.S.C. §102**

On page 2, item 2 of the June 11, 2007 first-Office Action, claims 1-3, 5-6, 8-11, 14-17, 19-25, 28-29, 31 and 32 were rejected under 35 U.S.C. 102(e) as being anticipated by Osann (U.S. Patent Publication No. 2004/0203608).

Osann disclosed wireless video and voice streams recordable on a server. Osann was vague as to whether or not the recording started on user command. Assuming has such commend, Osann did not disclose where or how any command recording was communicated. Applicant claims a messaging unit to determine “when the user of the cellular telephone device desires to record a cellular telephone conversation, to transmit a record enable signal via the radio unit using the out-of-band communication” as recited independent claim 1 and corresponding independent equipment claim 8 and method claim 22 . The Office Action relies on a “specified code” in paragraph [0028] of Osann to anticipate the recited “record enable signal”. In paragraph [0028] Osann gave one example of how to overcome privacy concerns by calling from a particular number and taking a prescribed action which could include entering a “specified code.”

Osann also did not explain in what fashion his “specified code” was delivered. The claims recite that Applicant’s “record enable signal” is transmitted form the radio unit “using the out-of-band communication.” Because Osann did not use out-of-band communication for any other traffic, it is difficult to contend out-of-band communication was inherent. Applicant hesitates to speculate, but if an audio DTMF or other pass code could have been used for the “specified code” of Osann, it would have been sent in-band with voice traffic.

The present invention takes advantage of the out-of-band path on a signaling channel in a cellular radio communication to send the claimed record enable signal and thereby save the time

and resources needed to setup a separate and parallel data channel to send this simple mere yes or no recording message.

The present invention, recited in certain dependent claims, implements out-of-band record enable signal in two exemplary ways, either as short message data or an internet protocol. SMS messages and internet protocol communications can be sent out-of-band, and parallel to a traffic channel carrying, say voice. It is, however, the application of this secondary out-of-band channel from a mobile to a network recorder for a record enable signal that eliminates the need to setup a data channel to send this simple mere yes or no recording message. The art of record, including the applied Osann reference, does not disclose or suggest the claimed use of out-of-band communications to send a record enable signal from a mobile to a network recorder.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-3, 5-6, 8-11, 14-17, 19-25, 28-29, 31 and 32 under 35 U.S.C. §102(b) over Osann is respectfully requested.

#### **Claim Rejections – 35 U.S.C. §103**

On page 7, item 4 of the June 11, 2007 first-Office Action, claims 4, 12 and 26 were rejected under 35 U.S.C. §103(a) as obvious over Osann (U.S. Patent Publication No. 2004/0203608) in view of Aschir (U.S. Patent Publication No. 2003/0186682).

Aschir showed an example of a mobile that uses SMS messages. However, Aschir did not use these SMS messages for control nor did either Aschir or Osann suggest use of SMS to deliver a record enable signal from a mobile to a network recorder as recited in claims 4, 12 and 26.

Accordingly, reconsideration and withdrawal of the rejection of claims 4, 12 and 26 under 35 U.S.C. §103(a) over Osann in view of Aschir is respectfully requested.

On page 8, item 5 of the June 11, 2007 first-Office Action, claims 7, 18 and 30 were rejected under 35 U.S.C. §103(a) as obvious over Osann (U.S. Patent Publication No. 2004/0203608) in view of Takagi et al. (U.S. Patent No. 6,690,950).

Takagi et al. disclosed the voice recording capability on a memory card of a mobile phone. Although telephone recording start and end instructions were sent, these were not sent over the wireless telephone network. Because voice recordings were made on the mobile phone memory card, neither Takagi et al. nor Osann suggested use of out-of-band communications to deliver record start or stop signals from a mobile to a network recorder as recited in claims 7, 18 and 30.

Accordingly, reconsideration and withdrawal of the rejection of claims 7, 18 and 30 under 35 U.S.C. §103(a) over Osann in view of Takagi et al. is respectfully requested.

On page 10, item 6 of the June 11, 2007 first-Office Action, claims 13 and 27 were rejected under 35 U.S.C. §103(a) as obvious over Osann (U.S. Patent Publication No. 2004/0203608) in view of Aschir (U.S. Patent Publication No. 2003/0186682), as applied to Claims 12, 26 above, and further in view of Olsson et al. (U.S. Patent No. 5,915,222).

Olsson et al. showed an example of a SS7 signaling. Aschir showed an example of a mobile that used SMS messages. However, none of Olsson et al., Aschir or Osann suggested use of SMS with SS7 signaling to deliver a record enable signal from a mobile to a network recorder as recited in claims 13 and 27.

Accordingly, reconsideration and withdrawal of the rejection of claims 13 and 27 under 35 U.S.C. §103(a) over Osann in view of Aschir and further in view of Olsson et al. is respectfully requested.

**Conclusion**

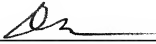
All the issues in the Office Action dated June 11, 2007 have been addressed. Favorable consideration of the present application is requested.

If any issues remain, the Examiner is much encouraged to phone the undersigned.

Respectfully submitted,

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